

NO. 28159

IN THE SUPREME COURT OF THE STATE OF HAWAII

C. KAUI JOCHANAN AMSTERDAM, Candidate for the U.S. Senate,
Plaintiff

vs.

DWAYNE D. YOSHINA, Chief Elections Officer
for the State of Hawai'i, Defendant

ORIGINAL PROCEEDING

ORDER

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon consideration of the "complaint contesting the elections procedures" filed by C. Kauai Amsterdam on September 21, 2006, which is treated as a petition for a writ of mandamus, it appears that petitioner's claim that the ballot for the September 23, 2006 Hawai'i primary election confuses voters about petitioner's nonpartisan candidacy is not supported by any evidence and the claim is not clear and certain. It further appears that HRS § 12-41(b) is not discriminatory and unduly burdensome to petitioner as a nonpartisan candidate. See Hustace v. Doi, 60 Haw. 282, 588 P.2d 915 (1978). Therefore, petitioner has failed to demonstrate a clear and indisputable right to relief and is not entitled to a writ of mandamus. See In Re Disciplinary Bd. of Hawaii Supreme Court, 91 Hawai'i 363, 984 P.2d 688 (1999) (Mandamus relief is available to compel an official to perform a duty allegedly owed to an individual only

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if the individual's claim is clear and certain, the official's duty is ministerial and so plainly prescribed as to be free from doubt, and no other remedy is available.)). Accordingly,

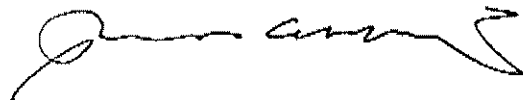
IT IS HEREBY ORDERED that the petition for a writ of mandamus is denied.

DATED: Honolulu, Hawai'i, October 3, 2006.



Steven H. Levinson

Honorable C. T. N. N. N.



James E. Duggan, Jr.